

**Remarks**

The Office Action dated October 15, 2008 has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto.

In the interests of securing an expedited Notice of Allowance, and without acceding to the rejections, claims 1 has been amended to incorporate features of dependent claims 15, 16, 18, and 19; and claim 34 has been amended to incorporate features of dependent claim 37 and further amended such that the claim now recites the following step: "applying the first coating to the data carrier only in certain areas, wherein the first coating is a printed line screen structure with a constant ruling and thickened areas at least in certain areas and only on one side." Support for this amendment may be found, for example, in Figure 9 and paragraph 69 the Specification. Claims 17 and 20 have been amended to depend on claim 1. No new matter has been added.

Accordingly, claims 1-14, 17, 20-31, 33-36, and 38-41 are pending in the application and are submitted for reconsideration.

Claims 1-2, 6-22, 24-25, 31-34, 26-37 and 41 were rejected under 35 U.S.C. 102(b) as being anticipated by Braun et al. (US 6,036,233) ("Braun '233). Applicants respectfully traverse this rejection and submit that pending claims 1-2, 6-14, 17, 20-22, 24-25, 31-34, 26-36 and 41 recite subject matter that is not disclosed by Braun '233.

Claim 1, upon which claims 2-14, 17, 20-31, 33, and 41 depend, is directed to a data carrier with an optically variable structure that has at least in partial areas a second coating disposed in overlap with the first coating at least in partial areas. The second

coating likewise contrasts with the data carrier surface and at least one of the coatings is comprised of translucent inks.

In maintaining the rejection under 35 U.S.C. 102(b), the Examiner relies on claim 1 of Braun '233 for disclosure of two embossed structures, each with a coating, and figures 9 and 11 for disclosure of an overlap of the first and second embossed areas and coatings. The Examiner further relies on figures 23 and 24 (col. 10, lines 55-68) for disclosure of transparent (translucent) inks.

In Figures 9 and 11, the coating is a line screen **6**, which corresponds to printed screens in other disclosed examples. Col. 5, lines 62-63; col. 4, lines 3-4. Example 1 (Figures 2 through 5) explains the structure of the embossing **8** (Figure 3) of the optically variable structure and the arrangement of the printed screen **6** on the flanks of the embossed optically variable structure. Col. 4, lines 21-23. The embossing **8** is schematically shown as viewed from that side of the optically variable structure, illustrating embodiments in which the flank **10** viewed from direction B coincides with the gap of the printed screen (light areas) and the flank **9** viewed from direction C coincides with the printed lines of printed screen **6** (shaded areas). Col. 4, lines 8-19. Figures 9 and 11 are similar in representational format, such that the embossing **8** is shown schematically as viewed from that side of the optically variable structure. Figures 9 and 11 illustrate alternative embodiments with varying patterns in which the line screen **6** (coating) is on two side-by-side flanks. Thus, Figures 9 and 11 do not represent overlapping coatings. Thus, Braun '233 fails to disclose a data carrier with an optically variable structure that has at least in partial areas a second coating disposed in overlap with the first coating at least in partial areas.

The Examiner refers to the following language of claim 1 of the present application (emphasized with underlining and presented in the context of the claim):

“the embossed structure and the coating being so combined that at least parts of the coating are completely visible upon perpendicular viewing but concealed upon oblique viewing so that a tilt effect arises upon alternate perpendicular and oblique viewing.”

The Examiner argues that this claim language can be broadly interpreted to include coating that is merely in different areas and of the same coating material. However, this part of the claim does not refer to the second coating and is not relevant to the fact that Braun ‘233 fails to disclose a data carrier with an optically variable structure that has at least in partial areas a second coating disposed in overlap with the first coating at least in partial areas. Further, Braun ‘233 fails to disclose a first coating as a printed line screen structure with a constant screen ruling and thickened areas at least in certain areas and only on one side. Thus, Braun ‘233 fails to disclose each and every element of pending claims 1-2, 6-14, 17, 20-22, 24-25, 31-34, 26-36 and 41. Accordingly, Applicants request the rejection be withdrawn and that pending claims 1-2, 6-14, 17, 20-22, 24-25, 31-34, 26-36 and 41 be allowed.

Claims 1-9, 14-17, 20-25, 27-36, 38, and 40-41 were rejected under 35 U.S.C. 102(b) as being anticipated by Hutton et al. (CA-1019012) (“Hutton”). Applicants respectfully traverse this rejection and submit that pending claims 1-9, 14, 17, 20-25, 27-31, 33-36, 38, 40-41 recite subject matter that is not disclosed by (“Hutton”).

In maintaining the rejection under 35 U.S.C. 102(b), the Examiner relies on Hutton’s disclosure of embossed lines that are colored and formed by an intaglio printing process (page 4, lines 17-20; page 6) and Hutton’s disclosure of embossed

areas superimposed with a set of colored lines and for disclosure of a second coating disposed at least partially in overlap with the first coating (Figure 5; page 3).

Essentially, according to the Examiner, the intaglio printing on the embossed lines superimposed with the colored lines serve as a second coating disposed in overlap with the first coating at least in partial areas. The Examiner further relies on claims 9 and 10 for disclosure of embossed lines intaglio printed with transparent ink.

However, Hutton does not disclose a data carrier with an optically variable structure having at least one of the coatings comprising, at least partly, translucent inks. Hutton discloses that “the embossed lines may be intaglio printed with a substantially transparent ink which . . . tends to increase the reflectivity and colour saturation of the embossed areas.” (page 6, lines 1-5). Hutton further describes embossed lines intaglio printed, in the alternative, with a light colour and, thus, distinguishes transparent inks from inks having any colour. Therefore, the transparent inks disclosed in Hutton lack any color and only increase color saturation of an underlying color. Hutton fails to disclose a translucent ink as claimed in the present application. (See Specification, Paragraphs 13 and 31, indicating that translucent inks have some color). Further, Hutton fails to disclose a first coating as a printed line screen structure with a constant screen ruling and thickened areas at least in certain areas and only on one side. Thus, Hutton fails to disclose each and every element of pending claims 1-9, 14, 17, 20-25, 27-31, 33-36, 38, 40-41. Accordingly, Applicants request the rejection be withdrawn and that pending claims 1-9, 14, 17, 20-25, 27-31, 33-36, 38, 40-41 be allowed.

Claims 1-9, 11-17, 20-25, and 27-41 were rejected under 35 U.S.C. 102(b) as being anticipated by Braun et al. (US 6,183,018) ("Braun '018"). Applicants respectfully traverse this rejection and submit that pending claims 1-9, 11-14, 17, 20-25, 27-31, 33-36, and 38-41 recite subject matter that is not disclosed by ("Braun '018").

In maintaining the rejection under 35 U.S.C. 102(b), the Examiner relies on Braun '018's disclosure of embossing in examples 5, 7, and 8 (col. 2, lines 55-44; col. 4, lines 20-67). However, Braun '018 does not disclose a data carrier with an optically variable structure having an embossed structure with a first coating, a second coating disposed in overlap with the first coating at least in partial areas, and at least one of the coatings comprising, at least partly, translucent inks. In Figure 5 of Braun '018, the embossed or printed information **6** is merely described as being produced within a particular area. There is no disclosure in the drawing or written description of a first coating on an embossed structure and a second coating disposed in overlap with the first coating at least in partial areas. In Figure 7 of Braun '018, the embossed or printed elements **11-15** likewise are merely described as being produced within a particular area. There is no disclosure in the drawing or written description of a first coating on an embossed structure and a second coating disposed in overlap with the first coating at least in partial areas. In Figure 8 of Braun '018, the embossing and line pattern (as described in Hutton) are produced within area **18**, separately from patterns in un-embossed area **19**. For reasons discussed above with respect to the rejection based on Hutton, Figure 8 does not disclose a data carrier with an optically variable structure having at least one of the coatings comprising, at least partly, translucent inks. Further Braun '018 fails to disclose a first coating as a printed line screen structure with a

constant screen ruling and thickened areas at least in certain areas and only on one side. Thus, Braun '018 fails to disclose each and every element of pending claims 1-9, 11-14, 17, 20-25, 27-31, 33-36, and 38-41. Accordingly, Applicants request the rejection be withdrawn and that pending claims 1-9, 11-14, 17, 20-25, 27-31, 33-36, and 38-41 be allowed.

Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Braun et al. (US 6,183,018) or Hutton et al. (CA-1019012) or Braun et al. (US 6,036,233) further in view of Plaschka et al. WO 03/052702 (US2005/0115425 used as an English language translation). Applicants respectfully traverse the rejection and submit that claim 26 recites subject matter not disclosed or suggested by the combination of cited prior art.

Claim 26 depends from claim 1, which is patentable over Braun '018, Hutton and Braun '233 for the reasons already set forth above.

Plaschka teaches a method for varying the depths of the engravings on the printing plate in order to affect the tonal value of the final embossed product. Plaschka is cited in the Office Action for its disclosure of embossed areas having predetermined heights. Plaschka fails to disclose an optically variable structure having a second coating with the claimed features, any coating comprised at least partly of translucent inks, and an embossed structure with raised areas. Thus, Plaschka cannot remedy the above-described deficiencies in the prior art. Accordingly, Applicants request that the rejection to claim 26 be withdrawn and that claim 26 be allowed.

### ***Conclusion***


In view of the foregoing, Applicants respectfully request withdrawal of all of the Examiner's rejections and objections, and submits that the application is now in condition for allowance and requests that the pending claims be allowed and this application passed to issue.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

1-15-09  
Date

  
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